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MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 1, 2018 / 2019

UCY4612 – CONVEYANCING PRACTICE

(All Sections / Groups)

19 October 2018

Reading Time: 9.00 a.m. – 9.15 a.m.

(15 Minutes)

Answering Time: 9.15 a.m. – 12.15 p.m.

(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes **ONLY** in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.
2. This Question paper consists of 4 pages with 4 Questions only.
3. Attempt **FOUR** questions. All questions carry equal marks and the distribution of the marks for each question is given.
4. Students are allowed to bring **CLEAN** and **ORIGINAL** copies of the following statutes into the Exam Hall: (i) Legal Profession Act 1976; (ii) National Land Code 1965; (iii) Housing Development (Control & Licensing) Act 1966 (together with Rules and Regulations incorporating latest amendments); (iv) Strata Titles Act 2013; (v) Strata Management Act 2013.
“Clean” is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.
5. Please write all your answers in the Answer Booklet provided. Please **highlight** or **underline** all references to cases and statutes

QUESTION 1

Read and understand the following conversation between Mr. A, a purchaser-client and Mr. B, a conveyancing solicitor and thereafter answer all the following questions:

- Mr. A: I am interested in purchasing a double storey house held under separate Individual Title Geran 12345, Lot No. 678 in the Mukim Melaka Tengah, Daerah Melaka and Negeri Melaka (hereinafter referred to as 'the said Property') for the sum of RM1 million only.
- Mr. B: Oh I see. I am willing to render my assistance to assist you to complete this sale and purchase transaction.
- Mr. A: The vendor will not appoint any solicitors to represent him. Can you act on our behalf to complete this sale and purchase transaction?
- Mr. B: Sure, no problem. I can act for both parties, namely the Purchaser and the Vendor in this sale and purchase transaction.
- Mr. A: Since you are introduced by my good friend, Mr. C, I believe you can give me a 'good price' and rebate on the professional fee because I have a runner who can conduct all the mandatory searches, filing and registering of documents etc. for me. Furthermore, I do not wish to lodge any private caveat onto the said Property.
- Mr. B: Sure, no problem, I will give you rebate on the professional fee. But I need to charge you the goods and services tax (GST) since I am providing my service to you. Meanwhile, it is your right to choose not to lodge any private caveat onto the said Property.
- Mr. A: Of course! I have another request. The vendor is currently in Penang. I will go back to my hometown namely Penang next week. In order to reduce your burden and for the convenience of the vendor, I will assist you by taking the sale and purchase agreement and other incidental documents for him to sign and thereafter return the documents for you to attest.
- Mr. B: Sure, you are reducing my workload. Much appreciate it. But I have to charge the vendor fees for preparing and supplying the sale and purchase agreement.
- Mr. A: Welcome. Thus, I will see you tomorrow for signing the relevant documents. By the way, can you tell me how much is the *ad valorem* stamp duty for the purchase of the property that I am required to pay to Inland Revenue Board?
- Mr. B: Oh, the total *ad valorem* stamp duty is RM5,000-00 only.

Continued...

You are required to answer the following questions:

- (a) Do you think Mr. B as a solicitor, has been professional in handling this sale and purchase transaction? Analyse and critically comment based on the Bar Council's Conveyancing Practice Rulings, the relevant statutory provisions and decided cases.

[20 marks]

- (b) Briefly explain whether the total *ad valorem* stamp duty given by Mr. B is correct. You are required to show your simple calculation in accordance with the provisions of Stamp Act 1949.

[5 marks]

(Total: 25 marks)

QUESTION 2

In February 2016 Ms. Ivy Ngu, a Malaysian citizen, purchased a Condominium unit known as Parcel No. B3-3A-33A, Level 3A Block 3, measuring approximately 1,500 square feet in area and bearing postal address Lot B3-3A-33A, Melaka Sentral Condominium, Jalan Melaka, 75450 Melaka, together with a car park within a housing development known as MELAKA SENTRAL CONDOMINIUM (hereinafter referred to as 'the said Property'). It was erected over land held under Leasehold Master Title PN 92859 Lot 64518, in the Town of Melaka, District of Melaka and State of Melaka for the purchase price of RM1 million, from Melaka Pines Developers Sdn. Bhd. ('MPDSB'). The separate subdivided strata title to the said Property has yet to be issued by the relevant land office/registry. Ms. Ivy Ngu financed her purchase by assigning the said Property to Bank Kaya Bhd. ('BKB') for a housing loan. There remains an outstanding sum of RM400,000-00 only under the said loan.

Mr. Pandai Pura-pura, an expatriate who is currently working in an engineering firm located at Melaka Raya is interested to purchase the said Property from Ms. Ivy Ngu. As such, Ms. Ivy Ngu contracted to sell the said Property to Mr. Pandai Pura-pura for the sum of RM1.5 million in May 2018. Mr. Pandai Pura-pura intends to apply to Bank Miskin Bhd. ('BMB') for a loan to finance the purchase.

Ms. Ivy Ngu has her own solicitors. Mr. Pandai Pura-pura has appointed you as his solicitor in this sale and purchase transaction. As the solicitor for Mr. Pandai Pura-pura, advise him on the relevant procedure to complete the sale and loan transactions and the required documentation.

(Total: 25 marks)

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QUESTION 3

Madam Ori Ginal is the registered proprietor of a plot of rubber small holding described as CT 23345, Lot 8659 Mukim Kajang, in Daerah Ulu Langat (the said land) for which she holds an original title deed. However, unknown to her in March 2015, one Fred, and an elderly lady claiming to be Madam Ori Ginal, approached Ms. Peguam to prepare a Power of Attorney granting Fred the right to sell the said land on her behalf. With the Power of Attorney, Fred manages to obtain a replacement title for the said land. Sometime in 2016, he contracts to sell the said land to Bah Yer for RM800,000. Bah Yer obtains a loan from Friendly Bank Bhd. who instruct M/S Rah Joo & Co., Advocates and Solicitors to prepare the security documents charging the said land to Friendly Bank Bhd. Subsequently, sometime in March 2017, Bah Yer contracts to sell the said land to Tree Pi, for RM1.2 million. M/S Rah Joo & Co subsequently act on the sale as well as the loan granted to Tree Pi by Orchid Bank Bhd. on behalf of both parties. Meanwhile in December 2017, Madam Ori Ginal received a quit rent receipt for the land bearing Bah Yer's name. Upon investigation she discovered the status of the land and sues Ms. Peguam and M/S Rah Joo & Co for damages for the loss of ownership of the said land.

Advise Ms. Peguam and M/S Rah Joo & Co on their liability if any, towards Madam Ori Ginal.

(Total: 25 marks)

Answer EITHER Question 4(a) OR Question 4 (b)**QUESTION 4 (a)**

Sometime in 2014, Mr. Venn Dor purchased an apartment together with an accessory parcel (the said property) from Solar Development Sdn. Bhd. for RM1.5 million held on Master title Lot 101 HS(D) 1009 Daerah of Melaka Tengah. He obtained a loan from Sunshine Bank Bhd to finance the purchase. As strata title was still pending, he assigned all his rights, title and interests in the said property to Sunshine Bank Bhd. Subsequently in September 2017, Mr. Venn Dor contracted to sell the said property to Eureka Sdn. Bhd. for RM 2.2 million with notice to Solar Development Sdn. Bhd. Eureka Sdn. Bhd. paid an initial deposit of RM220,000 and was to finance the balance of purchase price through a loan. According to the Sale and Purchase Agreement completion was to be within 3 months with an extension of one month failing which the Sale and Purchase Agreement would be terminated. In the event of a breach by the vendor all monies paid by the purchaser would be refunded with an additional sum equivalent to the deposit paid as agreed liquidated damages. In the event of a breach by the purchaser the deposit would be forfeited to the vendor whilst any other monies paid would be refunded less any costs and expenses incurred by the vendor.

Continued...

Eureka Sdn. Bhd. obtained financing from Property Bank Bhd. and the redemption sum was accordingly released to Sunshine Bank Bhd. and a caveat was entered on behalf of Property Bank Bhd. However, Eureka Sdn. Bhd. failed to complete payment of the balance of purchase price within the stipulated four months. Parties agreed to a further extension of one month. However, Eureka Sdn. Bhd. failed to complete and instead on 15 March 2018 issued through its solicitors, a Notice of Termination of the sale and purchase agreement for breach by Mr. Venn Dor for failing to deliver the Deed of Receipt and Reassignment and other documents of title to Eureka Sdn. Bhd.'s solicitors to enable them to pay the balance of purchase price to complete the sale. Eureka Sdn. Bhd. further demands the refund of all monies paid and further liquidated damages in the sum of RM220,000 together with interest and costs.

Advise Mr. Venn Dor on his legal rights and remedies.

(Total: 25 marks)

OR

QUESTION 4(b)

Eco Developers Sdn. Bhd. (EDSB) have been in the construction industry for several years and have built up a reputation as a reliable and respectable company that delivers quality housing and commercial buildings. TMK their Managing Director is very concerned about the recent amendments to laws concerning strata properties. EDSB has plans to launch a new project called "Urban Forest Living" involving 5 blocks of 10 storey condominiums, that will include residences, commercial parcels, a club house for residents, recreation facilities etc.

Advise EDSB on the procedure it has to follow under the amended *Strata Titles (Amendment) Act 2013* and *Strata Management Act 2013*.

(Total: 25 marks)

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